

DOCKET FILE COPY ORIGINAL

LAW OFFICES

COHN AND MARKS

STANLEY S. NEUSTADT
STANLEY B. COHEN
RICHARD M. SCHMIDT, JR.
JOEL H. LEVY
ROBERT B. JACOBI
ROY R. RUSSO
RONALD A. SIEGEL
LAWRENCE N. COHN
RICHARD A. HELMICK
WAYNE COY, JR.

MARK L. PELESH
J. BRIAN DE BOICE
ALLAN ROBERT ADLER
CHARLES M. OLIVER

OF COUNSEL
MARCUS COHN
LEONARD H. MARKS

SUSAN V. SACHS
JOHN R. PRZYPYSZNY
WILLIAM B. WILHELM, JR.*

*MEMBER PENNSYLVANIA BAR ONLY

SUITE 600
1333 NEW HAMPSHIRE AVENUE, N. W.
WASHINGTON, D. C. 20036-1573

TELEPHONE (202) 293-3860
TELECOPIER (202) 293-4827

DIRECT DIAL: 202-452-4843

October 13, 1994

VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

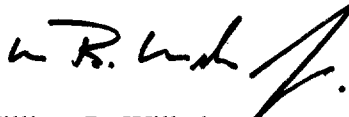
RE: Docket 94-54

Dear Mr. Caton

Please find enclosed for filing in the above-captioned proceeding an original and four copies of the National Cellular Reseller Association's Reply Comments.

Please return a file-stamped copy of NCRA's Reply with our messenger.

Very truly yours



William B. Wilhelm, Jr.

Enclosures

No. of Copies rec'd
List A B C D E

074

RECEIVED
OCT 13 1994
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE

Federal Communications Commission

In the Matter of)
)
Equal Access and Interconnection Obligations) CC Docket No. 94-54
Pertaining to Commercial Mobile Radio Services) RM-8012

REPLY COMMENTS OF THE NATIONAL CELLULAR RESELLERS ASSOCIATION

Joel H. Levy
William B. Wilhelm, Jr.
Cohn and Marks
Suite 600
1333 New Hampshire Ave., NW
Washington, DC 20036
(202)293-3860

Its Attorneys

October 13, 1994

SUMMARY

Requiring cellular carriers to interconnect to cellular resellers upon reasonable request and at unbundled rates, is in the public interest because it will enhance price competition and consumer choice. The reseller switch is technically feasible and using the public switched telephone network to interconnect CMRS providers would destroy the economic feasibility of cellular resellers switches. In the absence of specific rules governing CMRS - CMRS interconnection, facilities-based cellular carriers will continue to refuse resellers' repeated requests for interconnection without justification and in violation of the Communications Act.

TABLE OF CONTENTS

Summary	i
1. Requiring Cellular Carriers to Interconnect to Cellular Resellers, Upon Reasonable Request, Is In the Public Interest	2
A. The Justice Department and the Commission Have Established That Cellular Carriers Have Market Power	2
B. The Reseller Switch Will Enhance Consumer Choice of Carriers and Services. .	4
2. The Reseller Switch is Technically Feasible	6
3. Using the PSTN To Interconnect CMRS Providers Destroys the Economic Feasibility of the Cellular Reseller Switch	7
4. The Commission Must Promulgate Specific Rules Governing CMRS-CMRS Interconnection Obligations	8
Exhibit A	
Exhibit B	

RECEIVED

OCT 13 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

BEFORE THE

Federal Communications Commission

In the Matter of)	
)	CC Docket No. 94-54
Equal Access and Interconnection Obligations)	RM-8012
Pertaining to Commercial Mobile Radio Services)	

REPLY COMMENTS OF THE NATIONAL CELLULAR RESELLERS ASSOCIATION

The National Cellular Resellers Association (NCRA), by its counsel, herewith submits its Reply in the above-captioned proceeding. NCRA will make the following points in these comments: (1) mandatory interconnection between providers of commercial mobile radio service (CMRS) is in the public interest, (2) interconnection between cellular carriers and resellers is technically feasible, (3) interconnection directly between CMRS providers is necessary despite the fact that CMRS providers can gain interconnection to other CMRS providers through the public switched telephone network (PSTN), and (4) it is necessary for the Commission to promulgate specific rules governing interconnection between CMRS providers.

1. Requiring Cellular Carriers to Interconnect to Cellular Resellers, Upon Reasonable Request, Is In the Public Interest

A. The Justice Department and the Commission Have Established That Cellular Carriers Have Market Power

Several commenters once again assert that the cellular industry is vigorously competitive and that, in light of such competition, there is no need to impose interconnection obligations between CMRS providers or, more narrowly, between cellular carriers and resellers. These commenters would have the Commission believe the so called "CMRS market"^{1/} is sufficiently competitive to allow the carriers' own views of their "self interest"^{2/} to determine when and to what extent other CMRS providers should be granted interconnection to their networks. However, Congress has not chosen to delegate to each CMRS provider the power to grant or deny interconnection requests from other CMRS providers. Rather Section 332(c)(1)(B) requires only that a CMRS interconnection request be "reasonable."

Moreover, a disinterested examination of CMRS competition belies the carriers' assertions that the competitive state of the "CMRS market" justifies FCC forbearance from enforcing the mandatory interconnection obligations of 332(c)(1)(B). First, it is not possible to measure the level of competition in the "CMRS market" since CMRS is not a homogenous group of substitutable services but a collection of distinct wireless technologies which satisfy various consumer needs and operate and compete largely in separate and distinct markets. The Commission said as much in its Second Report and Order when it concluded that "for purposes

^{1/} Comments of CTIA, page 27.

^{2/} Comments of CTIA, page 29.

of evaluating the level of competition in the CMRS marketplace, the record does not support a finding that all services should be treated as a single market."^{3/} The cellular industry, therefore, must be examined separately in this regard.

Secondly, the carriers' assertions blatantly ignore the recent findings made by the Department of Justice in its Memorandum to the United States District Court for the D.C. Circuit,^{4/} which was attached to NCRA's initial comments, as well as the Commission's own conclusions leading to its tentative decision to impose equal access obligations on licensed cellular carriers.^{5/} In its Memorandum, the Justice Department established a compelling case that cellular carriers have market power and control bottleneck facilities. In the Notice of Proposed Rule Making pertaining to the equal access obligations of CMRS providers, the Commission essentially concurred with DOJ's findings by determining that licensed cellular carriers have the ability to deny interexchange carriers access to their networks and, therefore, subscribers access to the interexchange carrier of their choice.^{6/}

The conclusions reached by DOJ and the Commission establish that cellular carriers have market power and such power allows the carriers to take advantage of consumers who do not

^{3/} Implementation of Sections 3(n) and 332 of the Communications Act, Second Report and Order, 9 FCC Rcd 1411 at para 136 (1994). (Second Report and Order).

^{4/} See United States v. Western Elec., Memorandum of the United State in Response to Bell Companies' Motions for Generic Wireless Waivers, Civ. Action No. 82-0192 (filed July 25, 1994)(Attached to NCRA's initial Comments as Exhibits C & D).

^{5/} Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Services, Notice of Proposed Rulemaking and Notice of Inquiry, Docket No. 94-54 at paras 34, 35-43 (released July 1, 1994.)(NPRM/NOI).

^{6/} Id.

have access to a vigorously competitive market. There is no further need to debate the issue, rather, it is time now for the Commission to act expeditiously to diffuse the ability of these carriers to charge consumers and resellers supracompetitive prices. Over the past ten years, consumers have paid cellular carriers nearly \$50 billion to use networks requiring a total capital investment of barely \$16 billion.^{7/} While the Commission is moving to provide avenues for possible wireless competition through the auctioning of Personal Communications Services licenses, recognizing and promoting the statutory right of cellular resellers to interconnect to CMRS carrier networks at unbundled, just and reasonable rates^{8/} will achieve the benefits of competition in a much shorter period of time.

B. The Reseller Switch Will Enhance Consumer Choice of Carriers and Services.

GTE denigrates the ability of resellers to provide new services to cellular customers. It asserts, without offering any concrete evidence, that the "new" services resellers have proposed are either presently available or could be made available by the carriers without reseller switches.^{9/} These statements echo the arguments used historically on numerous occasions by monopoly carriers to forestall the introduction of competition including most recently the

^{7/} CTIA Mid-Year Survey, June, 1994.

^{8/} Requiring the carriers to unbundle their airtime and ancillary service charges is necessary for the public to obtain the full benefit of switch-based reseller service. Carrier refusal to unbundle their cellular offerings raises very substantial questions under the anti-trust laws. The courts have recognized that tying arrangements ("an agreement by a party to sell one product but only on the condition that the buyer also purchases a different [or tied] product," Northern Pac. Ry. v. U.S., 356 U.S. 1,5 (1958)) serve "hardly any purpose beyond the suppression of competition." Standard Oil Co., v. U.S., 337 U.S. 293, 305-06 (1949).

^{9/} Comments of GTE at 47.

interexchange and local telephone services markets. Arguably, many of the services offered by new competitors in those markets could have been provided also by the entrenched carriers.

However, the Commission has rightfully refused to accept such arguments. With respect to the interexchange market, for example, the Commission noted:

Competition . . . has brought consumers increased service options, reduced rates, and faster implementation of new technologies. For example, prompted by the pressures of competition, the AT&T has introduced reduced rate calling plans for residential and businesses of all sizes. AT&T's competitors also offer innovative calling plans. In addition, interexchange competition has fostered the deployment of new technology. Sprint, for example, was the first IXC to construct a fully fiber optic network.^{10/}

Similar to switched-based cellular resellers, competitive access providers ("CAPs") do not provide end-to-end communications services, rather, they compete in those segments of the network where it is technically and economically feasible for them to do so while relying upon the dominant carriers for bottleneck facilities that are essential to the provision of service to their customers. Yet, as the Commission explained, special access (private line) competition by these providers:

will produce similar results (to those in the interexchange and CPE markets) in the intrastate special access market. The growth in competition resulting from expanded interconnection should increase LEC incentives for efficiency and encourage LECs to deploy new technologies facilitating innovative service offerings. It also should make the LECs more responsive to customers in providing existing services.^{11/}

^{10/} In the Matter of Expanded Interconnection with Local Telephone Company Facilities, 7 FCC Rcd 7369 at ¶ 13, Report and Order and Notice of Proposed Rulemaking, (released October 19, 1992).

^{11/} Id. at ¶ 14.

Switch-based resellers may offer some services similar to those available from underlying carriers. The public will benefit from such additional competitive choices. Resellers may, in certain instances, target their offering to niche markets, and may offer services which are either of better quality than those available from the carriers or, in many cases, simply not offered by existing carriers. If the switch-based reseller cannot offer new services or inducements to the end user at competitive rates, they will be non-competitive and a footnote in the history of wireless competition, but with no loss to the public from the effort. It is difficult to fathom, therefore, the resistance of the facilities based carriers to switch-based reselling other than as a desperate delaying tactic to protect the status quo and forestall the day when their monopolistic pricing power will end.

2. The Reseller Switch is Technically Feasible

Several commenters urge the Commission not to require cellular carriers to interconnect with resellers on the grounds that the concept lacks specificity and proven technological or economic feasibility.^{12/} However, the reseller switch and the services it would provide were described in detail in Exhibit A of NCRA's initial comments.

The reality is that the reseller switch would initially absorb the customer-specific functions now performed in the cellular carriers' switches. As previously discussed, these functions include call verification, recordation, enhanced services and billing. A switch-based reseller would appear to the cellular carrier's Mobile Telephone Switching Office (MTSO) as a single, very large customer. The MTSO would be programmed to recognize only the resellers'

^{12/} See, e.g. Comments of Bell South at 18, AirTouch at 24.

NXX code(s). The signal from a mobile-to-land call having the NXX would be routed by data channel from the MTSO through to the reseller's switch for validation. If the reseller validates the call, then the reseller switch would route it through to the landline network. If the reseller switch does not validate the call, it would signal the MTSO to terminate the connection.

For calls from the landline network to the mobile, the reseller switch would perform the validation function prior to the call ever reaching the MTSO. Thus validation and recording of call detail of both mobile and landline originated calls would be performed exclusively by the reseller switch. The reseller would assume responsibility for all customer records and billing.

The reseller's interconnection with the cellular switch would resemble in almost all respects, the interconnections between interexchange and local exchange carriers. The only difference might be the need for supplemental low speed data channels to carry the validation signals. The technology of these interconnections is standard throughout the telephone industry.

There would be no degradation of the quality of service,^{13/} nor would there be any increase in processing time owing to the addition of a reseller switch. With digital transmission and switching technology, additional transmission links do not degrade service so long as all providers adhere to the appropriate signal quality standards. The need to query the reseller's, as opposed to the carrier's, validation system may increase processing time while the customer identification information travels between the carrier's and the reseller's switches. However, since these signals move at the speed of light, the delay would be undetectable.

3. Using the PSTN To Interconnect CMRS Providers Destroys the Economic Feasibility of the Cellular Reseller Switch

^{13/} See, Comments of McCaw at 15.

Several cellular carriers suggest that interconnection between CMRS providers is unnecessary because the Commission's existing rules require interconnection into the local exchange landline network. According to these carriers, since all CMRS systems interconnect with these networks, any reseller or enhanced services provider could achieve whatever interconnection it desires on the landline side of the CMRS/LEC interconnection. The suggestion is absurd. Following it to its logical conclusion, every end user of telephone equipment in the world is then already "interconnected."

The reality is, as the facilities based carriers well know, this arrangement would destroy the economic feasibility of a switch-based cellular reseller since it would require all of the reseller's traffic to pass from the MTSO through the LEC to the reseller switch, then back through the LEC to its point of termination. The reseller would be forced to pay not only additional charges to the cellular carrier, who would now be performing the full complement of switching and routing functions to send the call to the LEC, but also perhaps as much as double the access fees normally charged by the LEC as the reseller's calls pass twice through the LEC on their way to and from the reseller's switch.

4. The Commission Must Promulgate Specific Rules Governing CMRS-CMRS Interconnection Obligations

Several commenters have suggested that the Commission should not promulgate rules governing CMRS interconnection because the Communications Act already affords protection to parties seeking interconnection and that "in the rare instance where a denial of interconnection is

not justified on the basis of economic or technological efficiency, the aggrieved party will have recourse to the complaint process under Section 208."^{14/}

The Commission must promulgate rules mandating CMRS-CMRS interconnection. Contrary to commenters' assertions, carriers have repeatedly denied or even failed to acknowledge reasonable bona fide reseller interconnection requests. These denials have been accompanied however, by a claimed absence of specific FCC rules.^{15/} Although NCRA has previously cited Southwestern Bell Mobile's (SWBMs) outright refusal to provide, or even discuss interconnection arrangements,^{16/} the Commission should not assume that SWBM's position is unique. Furthermore, simply because few resellers have, as of yet, filed 208 complaints, antitrust actions or other litigation, the Commission must not assume that carriers are allowing interconnection in any form. Indeed, NCRA knows of not a single instance where a reseller has been allowed switched interconnection to a carrier's network. Contrary to the carriers' assertions, these unjustified denials occur with frequency.

For example, in California, GTE Moblenet flatly denied an interconnection request from Comtech Mobile for reasons wholly unrelated to technical or economic unfeasibility.^{17/} In an August 22, 1994 letter, Comtech requested switch-based interconnection at unbundled wholesale rates. To properly interconnect with GTE's equipment in a "mutually convenient and compatible manner" and to coordinate the design and manufacture of its equipment, Comtech

^{14/} Id. at 17.

^{15/} See e.g., Exhibits A and B attached hereto.

^{16/} See Comments of NCRA, Exhibit B.

^{17/} See Exhibit A herein.

understandably sought information and the cooperation of GTE's engineers. GTE's response, however, characterized Comtech's interconnection request as a request for proprietary information and thus "not requir[ing] GTE's response." Without the necessary information from GTE, however, any Comtech request would presumably then be characterized as either "vague" or "technically unfeasible." As such, it is critical that the Commission, in fashioning facilities-based cellular carrier to reseller interconnection rules, obligate carriers to provide the information necessary to allow resellers to prepare a detailed and technically compatible proposal.

As a further example, in a July 28, 1994 letter to Bell Atlantic Mobile (BAM), Nationwide Cellular Service, Inc. (Nationwide) inquired as to the procedures for installing a dedicated access between the BAM cellular network in the Baltimore/Washington MSA and Nationwide's interexchange carrier. The purpose of the dedicated access is to allow Nationwide to take advantage of the lower rates which the IXC offers to customers who connect directly to its network.

In a letter dated September 19, 1994,^{18/} BAM responded indicating "that BAM is obligated to provide equal access to Interexchange Carriers (IXC) that apply to us for interconnection." BAM went on to say that "Although, BAM will allow the IXC access to our network to deliver their long distance traffic, BAM is not required to offer resellers the ability to connect to our switches for any purpose including the delivery of their customers local or long distance calls." (Emphasis supplied).

^{18/} See Exhibit B herein.

BAM has apparently decided to respond to an interconnection request in anticipation of one being made. BAM has yet to reconcile its response to Nationwide with its declaration to the Commission that "There is no evidence that wireless carriers have been unwilling to interconnect with each other..."^{19/} Surely their letter of September 19, 1994 indicates, at the least, a certain unwillingness.

Also BAM's statement in its Comments here that "while the Commission can declare that CMRS carriers have a basic obligation as common carriers to interconnect with other *licensed* carriers upon reasonable request from those carriers, it should first rely on the marketplace to determine the appropriate interconnection arrangements."^{20/} (emphasis supplied) minimizes and distorts its statutory obligations. As BAM should know, the interconnection obligation of Section 332(c)(1)(B) runs from CMRS provider to CMRS provider. Although resellers are not necessarily licensed entities they are undeniably CMRS providers.^{21/} "Licensing" has no bearing on a resellers status as a CMRS provider. Nationwide, a CMRS provider, without even proffering a request for interconnection, has been told that such a request will be preemptorily rejected. In light of BAM's perception of what is required of it, its suggestion here that the Commission "should first rely on the marketplace to determine the appropriate interconnection

^{19/} Comments of Bell Atlantic Companies at page 16.

^{20/} Comments of Bell Atlantic Companies at page 15.

^{21/} 47 C.F.R. § 20.7(n); See also Second Report and Order at para. 37.

arrangement,"^{22/} is a transparent ruse to obfuscate and delay bona fide reseller interconnection requests.^{23/}

Although the Commission has previously indicated that it will "entertain" requests for interconnection on a case-by-case basis,^{24/} and resellers may file complaints under Section 208 if they believe they are being denied interconnection unreasonably, such an ad hoc approach is extremely time consuming, costly and largely ineffective. As NCRA stated in its initial comments, and as the attached carrier responses clearly demonstrate, the Commission needs to make explicit immediately that "CMRS licensees must, in good faith, now negotiate interconnection arrangements even in the absence of the adoption of specific interconnection rules."^{25/} Furthermore, the Commission must require cellular providers to permit resellers to interconnect except in instances where the carrier can demonstrate, by a clear preponderance of evidence, that interconnection is either technically or economically infeasible. Specific rules will create an environment where resellers, seeking to open up new avenues of competition in the

^{22/} Comments of Bell Atlantic Companies at page 15.

^{23/} The examples discussed in the text do not, unfortunately, exhaust the breadth of the carrier's mulish response to reseller interconnection requests, which is a common experience that resellers share in the largest markets.

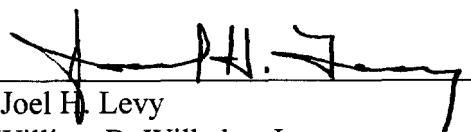
^{24/} NPRM/NOI at f. 213.

^{25/} Comments of NCRA at 6.

burgeoning field of wireless communications, will avoid entangling themselves and the FCC in expensive, and unproductive procedural delay.

Respectfully submitted

NATIONAL CELLULAR RESELLERS
ASSOCIATION

By: 
Joel H. Levy
William B. Wilhelm, Jr.

Cohn and Marks
Suite 600
1333 New Hampshire Avenue, NW
Washington, DC 20036
(202) 293-3860

Its Attorneys

Dated: October 13, 1994

EXHIBIT A

SEP-21-1994 11:39

COMTECH ADMIN.

510 732 5155 P.02



August 22, 1994

Ben Kahnoff
GTE Mobilnet
4410 Rosewood Drive
Pleasanton, CA 94566

Dear Mr. Kahnoff:

ComTech is preparing to implement its cellular reseller switched service in the Bay Area. Consistent with CPUC Dec. 94-08-022, this is to request unbundled wholesale cellular service from you and to provide you an engineering plan describing how ComTech will interconnect with your mobile telephone switching offices (MTSOs).

ComTech will purchase and install a telephone switch that will interconnect with GTE's MTSOs and the Public Switched Telephone Network ("PSTN"). All calls from or to ComTech's subscribers will be routed through and switched by ComTech's switch. The voice trunks that interconnect ComTech's switch and GTE's switch will be telephony industry standard 4-wire E & M trunks. The trunks will be carried between the switches on telephony industry standard T-1 or T-3 transmission facilities.

To insure that ComTech's Home Location Register ("HLR") can communicate in a fully compatible mode with GTE, ComTech will purchase and install the type of switch GTE uses or its equivalent. The type and quantity of data circuits required to provide validation of ComTech's subscribers, based upon the switch manufacturer's recommendation, will be installed by ComTech. ComTech's subscribers will register as a non-home subscriber when they make a call on GTE's MTSO so that GTE will request validation from ComTech's switch.

ComTech will contract with the manufacturer of GTE's MTSOs to develop any software that may be required by GTE to provide switched reseller service.

ComTech is also designing and engineering its system. To complete that design and so that ComTech can properly interconnect with all of your switches in a mutually convenient and compatible manner, responses to the following questions are requested.

1. Please identify the existing number of switches that serve the MSA.
 - (a) Are they independent or dependent on each other
 - (b) Please describe how they are interconnected

2. Please identify the type of switch(s).
 - (a) Manufacturer
 - (b) Model
 - (c) Size
 - (d) Software load number
3. Please identify the location of each switch.
4. Please identify the location of Visitor Location Register (VLR) or equivalent. (If it is part of the MTSC, so indicate).
5. Please identify if space is available in the switch building(s) for ComTech to install its transmission facility (T-1 and/or T-3 span shelves and associated plug-in modules) terminating equipment? If so may ComTech utilize it?
6. Please identify what protocols are used for mobile registration, or verification, in the following cases?
 - (a) Inter-system
 - (b) Inter-system, both systems owned by the same company
 - (c) Inter-system, the systems owned by different companies
 - (d) Inter-system, the systems use different types of switches
7. Please identify whether the switch software, IS-41 active, is on the switch(s).
 - (a) If so, what version?
 - (b) Please identify the type of signaling protocols supported
8. Please identify the points of interconnection with the PSTN.
9. Please identify the spare facilities available which ComTech could use to interconnect with the switch(s).
10. Please identify the voice trunk ports on the switch(s).
 - (a) Number installed by type
 - (b) Number active by type
 - (c) Expansion capability
11. Please identify the data ports (used by the VLR, or its equivalent, to request verification information from other switches on the switch(s)).
 - (a) Number installed by type
 - (b) Number active by type
 - (c) Expansion capability by type

SEP-21-1994 11:39

COMTECH ADMIN.

COWEN AND MARKS-4010F1000F0001#02/0001# 07/10
518 732 5155 P.04

As previously indicated, ComTech needs this information to expeditiously proceed to provide its service to the public. Since this information should be readily available to your engineers, please provide your response via facsimile with a copy by regular mail within seven days from the date of this letter. Also, please identify which of your engineers with whom ComTech should maintain ongoing contact to facilitate its service. ComTech is looking forward to working with you to achieve further success in providing your cellular network service to the public. Thank you in advance for your cooperation.

Sincerely,

COMTECH MOBILE TELEPHONE COMPANY

Steve Muir/rj
Steve Muir
President

SEP-21-1994 11:35

COMTECH ADMIN.

COMTECH ADMIN-4010#1303#001#007000.# 0710

310 732 3153 P.01



September 6, 1994

Ben Kahnoff
GTE Moblinet
4410 Rosewood Drive
Pleasanton, CA 94588

Dear Mr. Kahnoff:

On August 22, 1994, I sent the enclosed letter to you via regular mail. As I have not received any confirmation of your concept of this letter, I am taking the liberty of Federal Expressing a copy to you.

Sincerely,

COMTECH MOBILE TELEPHONE COMPANY


Steve Muir
President



GTE Mobilnet®

4410 Rosewood Drive
Pleasanton, CA 94588
(510) 416-0150

September 9, 1994

Mr. Steve Muir
President
Comtech Mobile Telephone Company
3928 Point Eden Way
Hayward, CA 94545-3719

Dear Mr. Muir:

This letter is in response to your inquiry of August 22 regarding GTE Mobilnet ("GTEM") switching equipment.

GTEM has filed a petition for rehearing and stay of the CPUC Dec. No 94-01-022, and under these circumstances GTEM is not prepared to provide answers to your questions at this time.

Furthermore, under the terms of the CPUC order, you are to provide GTEM with an engineering plan describing how you would interconnect with GTEM's MISO. This letter is not an engineering plan, but instead a request for information, some of which is clearly proprietary. Therefore, GTEM does not believe that this request is in accordance with the CPUC order, and does not require GTEM's response.

Sincerely,

Ben Kahrnoff
Vice President & General Manager

SEP-28-1994 14:37

COMTECH ADMIN.

510 732 5155 P.01



Certified Mail #P 134 190 069

September 16, 1994

Ben Kahrnoff
Vice President & General Manager
GTE Mobilnet
4410 Rosewood Drive
Pleasanton, CA 94588

Re: Your correspondence of September 9, 1994

Dear Mr. Kahrnoff:

This is in response to your letter of September 9, 1994 concerning Comtech's request for unbundled service. Your response appears to intentionally or unintentionally misunderstand Comtech's letter, its plans and request for information.

Comtech provided you an engineering plan for interconnection. Comtech asked you specific questions about your system so that it could more specifically address certain aspects of interconnection. Comtech cannot complete its design and engineer its system in an expeditious and mutually compatible manner without knowing certain specifics about your system. To the extent that you believe that the requested information is proprietary, Comtech encloses a copy of recently executed confidentiality agreement between it and the Los Angeles Cellular Telephone Company. Comtech and its outside engineer will execute this agreement and, likewise, it would ask that GTE Mobilnet ("Mobilnet") and your engineer execute the same to cover any Comtech confidential material which would be revealed to GTE Mobilnet as part of this cooperative process.

Comtech specifically needs to know the manufacturer of your switch (such as a AT&T or Motorola) and the interswitch message protocols which it uses (such as DMX or IS 41 and the pertinent revision). Comtech certainly does not wish to purchase an incompatible switch and attempt to propose interconnection with incompatible message protocols. Likewise, Comtech cannot engineer its system in a technically proper and cooperative manner unless the other information is forthcoming. By providing the requested information, Comtech can properly purchase its switch and the necessary message protocols. If you withhold such information, it is clear that you are preventing Comtech from properly interconnecting with Mobilnet and obfuscating Comtech's plan and violating Decision 94-01-022.

19-SEP-29 1994 08:25 CELLNET

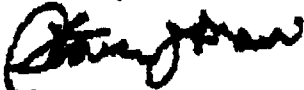
SEP-20-1994 14:37

COMTECH ADMIN.

910 732 5155 P.02

We appreciate the fact that Mobilnet may have filed a petition [sic] application for rehearing and requested a stay of the Commission's decision. However, no such stay has been granted and the Decision has no been effective since its issuance. We would hope that your letter is merely a mistake and that you are not trying to anti-competitively prevent Comtech from initiating its service. Thus, we would ask you that you provide the above-noted switch information immediately and that you advise us within five days of the date of this letter whether you intend to do so. Our engineer stands by to work with your engineer to make this mutually compatible endeavor.

Sincerely,



Steven J. Muir
President

enc.

SJM/rg